

REMARKS

Claims 1-17 are pending in the application, and claims 1, 11, 12, and 17 have been amended herein. Support for the claim amendments may be found in the application at least at paragraphs [0084, 0093-0094]. Favorable reconsideration of the application is respectfully requested in view of the claim amendments and following remarks.

I. OVERVIEW OF THE CLAIM AMENDMENTS

Claims 1, 12, and 17 have been amended to recite additional features pertaining to recording and dubbing of program content. As explained in response to the previous Office Action, in Applicants' system a first data stream for viewing (e.g., a transport stream TS) is received and converted into a second data stream (e.g., program stream PS) suitable for recording to a DVD. Initially, both the TS and PS are recorded into a first storage medium (e.g., an HDD). After such recording of both data streams, a user may instruct to copy the second data stream to a second storage medium (e.g., a DVD), which is referred to in the application as dubbing.

Pertinent to the current claim amendments, the application states that because the PS is generated from converting the TS, the PS would have a quality that does not exceed ("is equal or inferior to") the TS. The system, therefore, will play back the TS if a user seeks to watch the content off the HDD. (See, e.g., Application at paragraph [0084].) In accordance with such features, claims 1, 12, and 17 have been amended to recite "the second data stream having a lower playback quality than the first data stream".

Furthermore, in exemplary embodiments, if a user wishes to dub the content, the PS is dubbed as being compatible with the second storage medium (DVD), and the PS is deleted from the HDD to conserve HDD space. However, deleting **both** the PS and TS may not be desirable. For example, as stated above, the TS has better quality than the PS, and, therefore, even after the PS is dubbed to a DVD, a user still may wish to view the higher-quality TS from the HDD as circumstances permit. In Applicant's system, therefore, when the PS is dubbed the PS is deleted from the HDD without deleting the TS. (See, e.g., Application at paragraphs [0093-0094].) In this manner,

although the TS and PS are initially recorded in the first storage medium in association with one another, following dubbing the PS is deleted from the first storage medium without deleting the TS.

In accordance with such features, as stated above independent claims 1, 12, and 17 have been amended to recite the second data stream has a lower quality than the first data stream. In addition, the claims have been amended to recite the second data stream is written to the first storage medium "in association with the first data stream", and upon receiving an instruction to dub, the second data stream is deleted from the first storage medium "without deleting the first data stream from the first type of storage medium." The references cited by the Examiner do not disclose or suggest such combination of features.

II. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(a)

Claims 1, 3-5, 7-8, 11-12, and 14-16 again stand rejected pursuant to 35 U.S.C. § 103(a) as being obvious over *Honjo* in view of *Nomura et al.* The other claims again stand rejected pursuant to 35 U.S.C. § 103(a) as being obvious over *Honjo* and *Nomura et al.*, and further in view of other more tertiary references. Applicant respectfully requests withdrawal of the rejections for at least the following reasons.

A. Deficiencies of Nomura et al.

As in the previous Office Action, the Examiner recognizes *Honjo* does not disclose the claimed system operation when a dubbing instruction is received, particularly that the second data stream is written to the second storage medium and deleted from the first storage medium. The Examiner cites to *Nomura et al.* as disclosing such features, particularly at paragraphs [0104-0111].

Nomura et al., however, does not disclose or suggest the features of the current claim amendments. In particular, *Nomura et al.* does not disclose or suggest the second data stream is written to the first storage medium "***in association with the first data stream***", but upon receiving an instruction to dub, the second data stream is deleted from the first storage medium "***without deleting the first data stream from the first type of storage medium.***" At the outset, *Nomura et al.* emphasizes the

protection of copyrighted material. Considering such emphasis, it becomes clear why one skilled in the art would not understand *Nomura et al.* as disclosing or suggesting the claimed invention.

Fig. 16 of *Nomura et al.* depicts a checkbox 252 as to whether to delete the original content from an HDD upon dubbing a copy to an external storage medium. By checkbox 253, a user also may choose whether to select to convert the content format prior to copying. (See also Fig. 15, S6 and S7). As part of the copyright protection, the copying decision (Fig. 15 S6 and S7) may include a flag that must be turned off so as to permit use of the original content after copying. (See *Nomura et al.* at paragraphs [0110-0112].) In *Nomura et al.*, therefore, a user has the options of copying the content and deleting the original content from the HDD, or retaining the copy on the HDD by turning off the copyright protections. *Nomura et al.*, however, does not disclose or suggest writing two data streams on the HDD "in association" which each other, wherein one data stream may be dubbed and deleted "without deleting the first data stream" as claimed.

Indeed, the emphasis on permitting only particular copies in the system of *Nomura et al.* runs contrary to the focus of Applicant's system. Applicant's system permits a user to maintain a lower quality dubbed data stream (e.g., the PS on a DVD) and a higher quality data stream (e.g., the TS on the HDD), so as to encompass multiple viewing circumstances. *Nomura et al.* controls the copies that may be generated as described above. *Nomura et al.* does not disclose or suggest that the second data stream is deleted from the first storage medium without deleting the first data stream *at all*. To further do so in the context of the second data stream being written in association with the first data stream and of a lower quality, as claimed, is contrary to the purposes *Nomura et al.*.

Accordingly, *Nomura et al.* does not disclose or suggest the features of the current claim amendments. A combination of *Nomura et al.* and *Honjo*, therefore, does not result in, disclose, or suggest the claimed invention.

B. Deficiencies of Honjo

Applicant continues to disagree with the Examiner's assertion that *Honjo* discloses operation in essentially a "default" manner in which is the second data stream is created and recorded on the HDD absent a specific instruction from the user. (See Final Office Action, Response to Arguments). The Examiner takes the position that *Honjo* paragraphs [0072], [0079] and [0084] do not preclude the possibility that the system records or re-encodes the data from 9-Mbps CBR/TS into 3-Mbps VBR/PS absent any special user instruction. Whether *Honjo* "precludes" operation in the manner claimed is irrelevant. The issue is whether *Honjo teaches* such operation, which it does not.

The cited passages of *Honjo* do not expressly teach the claimed operation whereby data in the first and second formats are both recorded on the HDD prior to receipt of a dubbing instruction. Moreover, for purposes of rendering a claim obvious, what the reference expressly and literally teaches is what is relevant, not whether the description provided in the reference precludes a certain type of operation as asserted by the Examiner. Accordingly, *Honjo* does not teach that data in the first and second formats is recorded on the HDD prior to a request for dubbing as claimed, and whether the cited passages of *Honjo* preclude the claimed operation is not relevant.

The independent claims have been amended to recite writing the second data stream on the first type of storage medium "in association with the first data stream". Applicant submits such language further distinguishes the claimed invention from the ambiguous disclosure of *Honjo*. The Examiner also does not indicate *Nomura et al.* discloses such features. For at least these additional reasons, a combination of *Nomura et al.* and *Honjo*, does not result in, disclose, or suggest the claimed invention.

III. CONCLUSION

For at least these reasons, a combination of *Honjo* and *Nomura et al.* does not result in, disclose, or suggest the invention as recited in independent claims 1, 12, and 17. The rejection of such claims, therefore, should be withdrawn, and the dependent claims are patentable for at least the same reasons. Accordingly, claims 1-17 are

allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988, Docket No. OKUDP0170US.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

/Mark D. Saralino/

Mark D. Saralino
Reg. No. 34,243

DATE: April 21, 2010

The Keith Building
1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113